

MARGULIES WIND
A Professional Corporation
Harborside Financial Center
Plaza 10, 3 Second Street, Suite 1201
Jersey City, New Jersey 07311-3988
(201) 333-0400 (201) 333-1110/fax
Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

ALEXANDER ATEHORTUA,

Plaintiff,

vs.

TATA CONSULTANCY SERVICES
LIMITED (A Foreign Profit
Corporation),

Defendant.

Civil Action No.

CIVIL ACTION

COMPLAINT AND JURY DEMAND

Plaintiff, Alexander Atehortua, by way of Complaint against the Defendant, states
as follows:

PARTIES

1. Plaintiff, Alexander Atehortua, (hereinafter "Plaintiff"), a Latin American, born in Pereira, Columbia, resides at 1325 Argal Drive in the Town of South Plainfield, in the County of Union in the State of New Jersey.

2. Defendant, Tata Consultancy Services Limited, (hereinafter "Defendant") an Information Technology Services Corporation, headquartered in Mumbai, India, maintains an office located at 379 Thornhall Street, 11th Floor, in the Township of Edison, County of Middlesex, in the State of New Jersey.

JURISDICTION

3. This Court has original jurisdiction of this action pursuant to 28 U.S.C. §1331 since this complaint alleges the Defendant violated 42 U.S.C. §2000(e-2) (the "Federal Statutes") and accordingly, the action raises a federal question.

4. In this action, Plaintiff seeks compensatory damages, punitive damages, attorneys' fees, interest and other costs resulting from Defendant's alleged discrimination against Plaintiff arising under the Federal Statute as well as claims arising under the New Jersey Law Against Discrimination, N.J.S. A. 10:5-1, et seq. (the "NJLAD")

5. This Court has supplemental jurisdiction of the NJLAD claims in accordance with 28 U.S.C. §1367, because the claims "are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution." 28 U.S.C. §1367(a)

6. Venue is proper in this district pursuant to 28 U.S.C. §1391 (c) in that the claims arose in this district and the defendant corporation is subject to personal jurisdiction in this district.

FACTS COMMON TO ALL COUNTS

7. Defendant Tata's work force in the State of New Jersey primarily consists of L1 Visa Holders. The L1 Visa is used to transfer an employee to a U.S. parent, affiliate, subsidiary, or branch office from a related foreign corporation.

8. Plaintiff, Alexander Atehortua, began his employment with Defendant Tata on or about April 9, 2007 as a North America On-Boarding Officer in the Human Resources Department.

9. Throughout Plaintiff's tenure of employment with Defendant Tata, Plaintiff was subject to racially charged insinuations of inferiority by his supervisors. Plaintiff was ridiculed without rationale in front of colleagues and Plaintiff was subjected to disparate treatment due to his race and nationality.

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10. Throughout the course of his employment, Plaintiff was passed over for higher level job opportunities within Defendant Tata's firm despite his superior qualifications and experience.

11. Throughout the course of his employment, Plaintiff's expense reimbursement claims were ignored and/or processed tardily by administrative supervisors while other similarly situated Indian colleagues' expenses were reimbursed appropriately.

12. On or about February 12, 2009, Plaintiff was terminated from his employment with Defendant Tata under the pretext that his position and division were being eliminated due to the downturn in the economy.

13. Plaintiff's former position and department are currently in operation and a white Caucasian female has assumed the duties of plaintiff's former position.

14. During the period of Plaintiff's employment, he observed that the Defendant Tata, an Indian Corporation, systematically planned the terminations of its American employees by hiring Indian L1 Visa Holders to be trained by the Americans with the goal of replacing their American mentors.

PROCEDURAL REQUIREMENTS

15. On or about December 9, 2009, the EEOC notified Plaintiff of his right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended 42 *U.S.C.A.* 2000e, *et seq.*

16. On or about December 9, 2009, the Plaintiff received a Dismissal and Notice of Rights Letter from the EEOC. A true and accurate copy of the Right to Sue Letter is annexed hereto as Exhibit "A".

FIRST CAUSE OF ACTION

(Violation of 42 *U.S.C.A.* §2000 (e-2))

17. Plaintiff adopts and incorporates by reference all of the allegations contained in paragraphs 1 through 16 above.

18. Defendant engaged in patterns and practices of discrimination against Plaintiff with respect to the terms, conditions and privileges of employment because of Plaintiff's race, in violation of 42 *U.S.C.A.* §2000 (e-2).

19. Defendant engaged in patterns and practices of discrimination against Plaintiff with respect to the terms, conditions and privileges of employment because of Plaintiff's color, in violation of 42 *U.S.C.A.* §2000 (e-2).

20. Defendant engaged in patterns and practices of discrimination against Plaintiff with respect to the terms, conditions and privileges of employment because of Plaintiff's national origin, in violation of 42 U.S.C.A. §2000 (e-2).

21. By the forgoing occurrences alleged in the complaint, Defendant Tata's conduct, through and by the acts of its employees, willfully, wantonly and recklessly violated the civil rights of Plaintiff.

22. By reason of the actions complained of above, particularly, but not limited to his wrongful dismissal, in addition to the ongoing deprivation of Plaintiff's civil rights, the Plaintiff has suffered damages, including loss of employment, loss of income, emotional distress and other monetary damages.

WHEREFORE, Plaintiff, Alexander Atehortua, demands judgment against Defendant Tata Consultancy Services Limited, awarding:

- (a) Compensatory Damages;
- (b) Punitive Damages;
- (c) Interest;
- (d) Costs of Suit;
- (e) Reasonable Attorneys' Fees; and
- (f) Such other and further relief as this court may deem just and proper.

SECOND CAUSE OF ACTION

(New Jersey Law Against Discrimination)

23. Plaintiff adopts and incorporates by reference all of the allegations contained in paragraphs 1 through 22 above.

24. By all of the aforementioned acts alleged in the complaint, Defendant Tata has violated Plaintiff's rights under the *New Jersey Law Against Discrimination N.J.S.A. 10:5-1 et seq.* by engaging in a pervasive and egregious pattern of racial discrimination creating a hostile work environment for Plaintiff and has denied Plaintiff his civil rights under said statute.

25. Defendant engaged in unlawful discrimination against Plaintiff, on the basis of national origin and/or nationality, in violation of the *New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq.*

26. By the forgoing occurrences alleged in the complaint, Defendant Tata's conduct, through and by the acts of its employees, willfully, wantonly and recklessly violated the civil rights of Plaintiff.

27. By reason of the actions complained of above, particularly, but not limited to his wrongful dismissal, in addition to the ongoing deprivation of Plaintiff's civil rights, the Plaintiff has suffered damages, including loss of employment, loss of income, emotional distress and other monetary damages.

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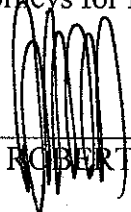
WHEREFORE, Plaintiff, Alexander Atehortua, demands judgment against Defendant Tata Consultancy Services Limited, awarding:

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- (b) Punitive Damages;
- (c) Interest;
- (d) Costs of Suit;
- (e) Reasonable Attorneys' Fees; and
- (f) Such other and further relief as this court may deem just and proper.

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Dated: February 5, 2010

MARGULIES WIND
A Professional Corporation
Attorneys for Plaintiff



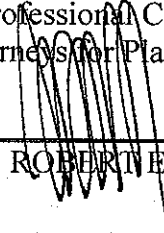
BY: ROBERT E. MARGULIES

DEMAND FOR A JURY TRIAL

Plaintiff hereby demands a trial by jury as to all issues.

MARGULIES WIND
A Professional Corporation
Attorneys for Plaintiff

Dated: February 5, 2010



BY: ROBERT E. MARGULIES

EEOC Form 161 (2/08)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Alexander Atehortua
1325 Yurgel Dr.
South Plainfield, NJ 07080

From: USEEOC
One Newark Center, 21st flr.
Newark, NJ 07102



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.
524-2009-00937

EEOC Representative
Amparo Soto, Enforcement Supervisor

Telephone No.
(973) 645-6021

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- ☐ Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- ☐ The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- ☐ Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
- ☒ The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- ☐ The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- ☐ Other (briefly state)

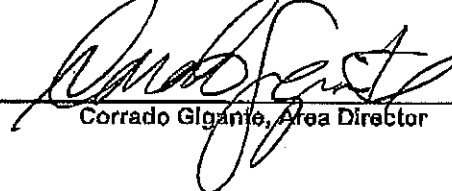
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission


Corrado Gligano, Area Director

Enclosures(s)

DEC 14 2009

(Date Mailed)

cc: Surya Kant, President
TATA Consultancy Services
379 Thornall St., 4th flr.
Edison, NJ 08837

EXHIBIT A